IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND Northern Division

DALE FOSTER, DARLA SOLOMON) and DAVID LEITHREN, individually and) on behalf of all others similarly situated)	
Plaintiff,	
v.)	Civil Action No. 1:22-CV-1581 (GLR)
LOWER, LLC,	
Defendant.)	
EDGAR WOLFF, individually and) on behalf of all others similarly situated)	
Plaintiff,	
v.)	Civil Action No. 1:22-cv-02003-JKB
LOWER, LLC,	
Defendant.)	

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Plaintiffs Dale Foster, Darla Solomon, David Leithren, and Edgar Wolff, individually and behalf of others similarly situated ("Plaintiffs"), hereby move this Court to:

1. Preliminarily approve the settlement described in the "Settlement Agreement" between Plaintiffs and Lower, LLC ("Defendant"), and the attachments thereto (including the Claim Form, the Short Form Notice, the Long Form Notice, the Proposed Preliminary Approval Order, and the Proposed Final Approval Order) filed herewith in support of this Motion as fair, reasonable, and adequate;

- 2. Provisionally certify the Settlement Class pursuant to Rule 23 for settlement purposes only;
- 3. Approve the Notice Program set forth in the Settlement Agreement, including the form and content of the notices attached to the Settlement Agreement as Exhibits A and B;
 - 4. Designate Plaintiffs as Class Representatives;
- 5. Appoint David K. Lietz of Milberg Coleman Bryson Phillips Grossman, PLLC and Raina C. Borrelli of Turke & Strauss LLP as Class Counsel;
 - 6. Approve the retention of Angeion Group as Settlement Administrator;
- 7. Approve the procedures set forth in Sections VI of the Settlement Agreement (Exhibit 1 to the supporting Memorandum) for Settlement Class Members to exclude themselves from the Settlement Class or object to the Settlement;
- 8. Approve the use of a claim form substantially similar to that attached as Exhibit C to the Settlement Agreement, filed herewith;
- 9. Further stay the Action or otherwise adjourn litigation deadlines pending Final Approval of the Settlement;
- 10. Stay and/or enjoin, pending Final Approval of the Settlement, any actions brought by Settlement Class Members concerning a Released Claim; and
- 11. Schedule a Final Approval Hearing for a time and date convenient for the Court 120 days or more after a Preliminary Approval Order is entered, at which the Court will conduct an inquiry into the fairness of the Settlement, final approval of the

Settlement and consideration of Settlement Class Counsel's Motion for Award of Fees, Expenses, Expenses, and Service Awards for the Class Representatives.

This Motion is based upon: (1) this Motion; (2) the Memorandum in Support of Plaintiffs'

Unopposed Motion for Preliminary Approval of Class Action Settlement; (3) the Joint Declaration of David K. Lietz and Raina C. Borrelli filed herewith; (4) the Settlement Agreement; (5) the Notices of Class Action Settlement (both Short and Long Form); (6) the Claim Form; (7) the [Proposed] Order Granting Preliminary Approval of Class Action Settlement; (8) the [Proposed] Final Approval Order; (9) the records, pleadings, and papers filed in this action; and (10) upon such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

Dated: July 17, 2023 Respectfully submitted,

/s/ Thomas Pacheco

Thomas Pacheco (# 21639)

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Attorneys for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2023, I electronically filed the foregoing document using the Court's electronic filing system, which will notify all counsel of record authorized to receive such filings.

/s/ Thomas Pacheco
